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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,131	08/10/2001	Gowri Rajaram	UTL 00104	4248

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EXAMINER

CHOW, CHIH CHING

ART UNIT PAPER NUMBER

2192

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/927,131

Applicant(s)

RAJARAM ET AL.

Examiner

Chih-Ching Chow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 April 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-38 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 22 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/13/2004.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This action is responsive to amendment dated April 22, 2005.
2. Per Applicants' request, specification has been amended.
3. Claims 1-38 remain pending.

#### *Response to Amendment*

4. Applicants' amendment dated 04/22/2005, responding to the 01/04/2005 Office action provided in the objection of drawings. The examiner has reviewed the updated drawings, FIGs 1-15 respectfully.
5. The drawings filed on 01/04/2005 are acceptable subject to correction of the informalities indicated below:
  - The drawings are objected to because FIG. 3, item 316, SYMBOL LIBRARY NN, should be SYMBOL LIBRARY M (see paragraph 0050 of current application). Appropriate correction is required. The correction will not be held in abeyance.
  - The drawings are objected to because FIG. 4, item 460 is not described in the specification. Appropriate correction is required. The objection to the drawings will not be held in abeyance.
  - The item number 370 is called 'run-time library' in FIG. 3, but is called 'run-time engine' in FIG. 8. The name for the same item number used in different figures should be consistent. Appropriate correction is required. The objection to the drawings will not be held in abeyance.
  - Descriptions for items 1100, 1101a, 1101b, 1102, 1103a, 1104, 1110 of FIG.11 are missing. Appropriate correction is required. The objection to the drawings will not be held in abeyance.

- Descriptions for items 1200, 1201a, 1201b, 1202, 1203a, and 1204 of FIG.12 are missing. Appropriate correction is required. The objection to the drawings will not be held in abeyance.
  - Descriptions for items 1300, 1301a, 1301b, 1302, 1304, and 1310 of FIG.13 are missing. Appropriate correction is required. The objection to the drawings will not be held in abeyance.
  - Descriptions for items 1400, 1401a, 1401b, 1402, 1403a, 1404, 1406, and 1410 of FIG.14 are missing. Appropriate correction is required. The objection to the drawings will not be held in abeyance.
  - Descriptions for items 1500, 1501a, 1501b, 1502, 1503a (1503 in the specification, but not in the drawing), 1504, and 1506 of FIG.15 are missing. Appropriate correction is required. The objection to the drawings will not be held in abeyance.
6. The Double Patenting rejection to the copending application S.N. 09/969,305 is withdrawn, since the Applicant has submitted a terminal disclaimer (04/22/2005) to obviate the basis of the rejection.
7. Applicants' amendment dated 04/22/2005, responding to the 01/04/2005 Office action provided in the objection of specification. The examiner has reviewed the updated specification respectfully.
8. The objection to the specification is hereby withdrawn in view of Applicants' amendment to the specification.

***Response to Arguments***

9. Applicants' arguments for Claims 1, 3 and 7 have been fully considered respectfully by the examiner but they are not persuasive.

10. Applicants' arguments are basically in the following points:

- "McGuire explicitly lists other devices, but none of the other listed devices are communication devices, such as cellular telephones", under REMARKS page 4, 5<sup>th</sup> paragraph.

Examiner's Response: See the same quote that is in the REMARKS, McGuire's column 5, lines 25-26, "Moreover, those skilled in the art will appreciate that the invention may be practiced with other computer system configurations, including **hand-held devices**, multi-processor systems, **microprocessor based or programmable consumer electronics**, network PCs, minicomputers, mainframe computers, and the like." - all of these devices are communication devices (they are connected via communication network). A cellular telephone is basically a hand-held device. Besides, 'cellular telephones' is not mentioned in either claims 1, 5, or 7.

- "McGuire is a non-analogous art", REMARKS page 3, 2<sup>nd</sup> paragraph under B. Claims Rejected Under 35 U.S.C. § 103 (a)
- "The claimed invention and McGuire are generally dealing with different problems", REMARKS page 4, 6<sup>th</sup> paragraph.

Examiner's Response: Again, from the previous quote, **a hand-held device** would have 'much less memory available', 'the information receiving bandwidth is much less' and 'processing power is typically more limited'. Both McGuire's disclosure and the current application are categorized under 717/173 (Software Upgrading or updating, including downloading), McGuire is analogous art because it is from the same field of endeavor of updating or upgrading software; both McGuire and current application are trying to solve the same

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problem. In addition to McGuire, Hansson's prior art, which teaches a method for downloading software into a cellular telephone via wireless communication, is also cited to supplement McGuire's disclosure.

11. Based on above explanation for claim 1 rejection, accordingly, Examiner is maintaining the 35 USC § 103 Rejections for claims 1-38.

***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Ching Chow whose telephone number is 571-272-3693. The examiner can normally be reached on 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is

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703-872-9306. Any inquiry of a general nature of relating to the status of this application should be directed to the **TC2100 Group receptionist: 571-272-2100.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chih-Ching Chow

Examiner

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May 25, 2005

CC

A handwritten signature in black ink, appearing to read "Anthony Nguyen-Ba". The signature is fluid and cursive, with the first name "Anthony" being more prominent than the last name "Nguyen-Ba".

ANTHONY NGUYEN-BA  
PRIMARY EXAMINER